IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE CRIMINAL JURISDICTION

CRIMINAL APPEAL NO. 198 OF 2007

Mohd. Hasan Mohd. Anas @ Hasan Battre.
....Appellant.

Vs.

The State of Maharashtra.
....Respondents.

Mr. Sharif Shaikh & Mirza Yadullah for the Appellant.
Mrs. U.V. Kejriwal, APP. for the State.

CORAM: B.H.MARLAPALLE &
R.S. MOHITE, JJ.
DATE : 1st March, 2007

P.C.

1. This is an appeal under Section 34 of the POTA Act arising from an order passed by the learned Judge of the Special Court on 22.1.2007 thereby rejecting the application filed at Exh.D-72

2. It appears that the said application was filed seeking liberty to cross examine the P.W.No.8 on his recall but beyond the scope of examination-in-chief on recall. The learned Judge of the Special Court noted that the re-examination should be restricted to the subject on which the application is filed and the application filed by the defence for recalling the witness did not reveal anything and the reply filed by the defence to the application for recall did not indicate that the defence wants to bring certain new

facts on record nor did it file any additional reply. Under these circumstances, the learned Judge of the Trial Court relied upon the Judgment of the Supreme Court in the case of **Dahyabhai Chhaganbhai Thakkar Vs. State of Gujarat reported in A.I.R. 1964 S.C. 1563.** He felt that the scope of re-examination is limited and the court can permit the adverse party to cross examine the witness on the answers elicited on such questions. It also held that the permission to cross examine the witness on any new topic, particularly, in respect to the statement of conspiracy, in respect of bomb blast that had taken place on 11.7.2006 could not be granted as such permission may cause prejudice to the prosecution case.

3. We do not find any reason to entertain the present appeal against such an interlocutory order and finally if the applicant is convicted, he is at liberty to challenge the order of conviction and sentence.

4. Hence, the appeal is dismissed in limine.

(R.S. MOHITE, J.) **(B.H. MARLAPALLE, J.)**